

REMARKS

In the Office Action, claims 1, 2, 7, 9, 10, 11, 13, 18 and 19 were rejected under 35 USC §102(b) as being anticipated by Clostermeyer et al U.S. Patent 4,566,380. Claims 5 and 16 were rejected under 35 USC §103(a) as being unpatentable over Clostermeyer et al in view of Jennings U.S. Patent 4,458,587. Claims 8, 14 and 21 were rejected under 35 USC §103(a) as being unpatentable over Clostermeyer et al in view of Olin U.S. Patent 5,263,410.

Claims 3, 4, 6, 12, 15, 17 and 24 were objected to as being dependent upon a rejected base claim, with an indication that such claims would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. By this response, claims 3, 6, 12, 15 and 17 are amended to independent form, in each case incorporating the limitations of the base claim and any intervening claims. In view of the Examiner's indication, it is thus believed that claims 3, 6, 12, 15 and 17 are in allowable form, along with dependent claim 4. Claim 24 was amended to independent form in the response filed November 26, 2003. The Examiner's indication of allowable subject matter in claim 24 is interpreted to indicate allowance of claim 24.

The remaining claims have been amended in a manner believed to clearly and patentably define over the references.

The Examiner states that Clostermeyer et al discloses a bale kicker assembly which includes an inner kicker 19 and an outer kicker 16, in combination with a lifting and lowering arrangement 22, 24, 25 and 26. Applicants note with appreciation the Examiner's explanations as to applicability of the Clostermeyer et al reference to the claimed subject matter.

In Clostermeyer et al, reference character 16 denotes an outer rod that is rotatably supported on a pin 17, to provide an inclined discharge path for bales 15 (column 3, lines 27-29). Pin 17 is connected to a fixed carrier profile 18. A lever 19 is welded to rod 16 (column 3, lines 31-33). With this construction, outer rod 16 is rotatably supported at pin 17, and lever 19 is welded to rod 16 so that both rod 16 and

lever 19 rotate about pin 17. Thus, there is a fixed angular relationship between lever 19 and rod 16.

In direct contrast, the present invention contemplates a kicker 30 having pivotably interconnected inner and outer sections 32, 34, respectively. Inner section 32 is pivotably mounted to the baler at pivot tube 38. Inner section 32 defines an inner end pivotably mounted to pivot tube 38, and an outer end that moves vertically between a raised position as shown in Fig. 4a and a lowered position as shown in Fig. 4b, in response to operation of the lifting and lowering arrangement. Furthermore, outer section 34 of kicker 30 is pivotably mounted to the outer end of inner section 32. With this construction, the kicker of the present invention has a jointed construction, defined by the pivotable interconnection between the inner and outer sections.

The remaining independent claims of this application have been amended to emphasize this feature. Specifically, claim 1 is amended to state that the inner kicker section defines an inner end and an outer end. The inner end of the inner kicker section is defined as being pivotably mounted to the baler. Claim 1 further states that the inner kicker section is movable between a lowered discharge position and a raised position. Claim 1 is amended to state that movement of the inner kicker section between the lowered discharge position and the raised position moves the outer end of the inner kicker section vertically between a lowered position and a raised position. Claim 1 further states that the outer kicker section has an inner end that is pivotably mounted to the outer end of the inner kicker section, and an outer end spaced rearwardly therefrom.

The Clostermeyer et al reference does not show or suggest the subject matter of amended claim 1. As noted above, Clostermeyer et al shows lever 19 and rod 16 secured together in a fixed angular relationship and pivotably mounted to the baler at pin 17. In Clostermeyer et al, the inner end of the lever 19 is not pivotably interconnected with the baler, as set forth in claim 1, but rather is interconnected with switching rod 20. Further, the outer end of lever 19 is fixed to the inner end of rod 16, and is not vertically movable between raised and lowered positions, as claimed. Finally,

the inner end of rod 16 is connected to lever 19 in a fixed angular relationship, and is not pivotably mounted to the outer end of an inner kicker section, as claimed.

For the above reasons, claim 1 is believed to patentably define over the Clostermeyer et al reference. A review of the remaining references of record similarly fails to show or suggest the claimed subject matter, and accordingly claim 1 is believed allowable.

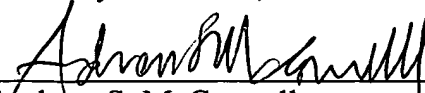
Claims 2, 5, 7 and 8 depend directly or indirectly from claim 1, and are believed allowable for the above reasons as well as in view of the subject matter of each claim.

Independent claims 9 and 18 are amended to incorporate limitations similar to those added to amended claim 1. Accordingly, claims 9 and 18 are thus also believed allowable, along with dependent claims 10, 11, 13, 14, and 16 (which depend from claim 9) and dependent claims 19-21 (which depend from claim 18).

This response places all of the pending claims into condition for allowance, and does not require further consideration and/or search. Accordingly, entry of this amendment is respectfully requested, along with issuance of a Notice of Allowance.

The Examiner is encouraged to contact the undersigned by phone if questions remain after consideration of this response, or if such would otherwise facilitate prosecution.

Respectfully submitted,

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